

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. 06-cv-02269-JLK

INFORMATION NETWORK FOR RESPONSIBLE MINING (“INFORM”), and
COLORADO ENVIRONMENTAL COALITION (“CEC”)

Plaintiffs

v.

BUREAU OF LAND MANAGEMENT,
a federal agency within the Department of the Interior

Defendant.

ORDER

Kane, J.

This case concerns the adequacy of Defendant’s response to a 2006 FOIA request by Plaintiffs for all agency records created or obtained by Defendant after January 1, 1995 “regarding activities under consideration in the recently released Uranium Leasing Program Draft Programmatic Environmental Assessment.” In their Reply on the Order to Show Cause issued on June 23, 2009, Plaintiffs assert the Defendant has yet to comply fully with my April 28, 2009 Order on Cross-Motions for Summary Judgement because it has not searched for and produced documents concerning oil and gas leasing on tracts in the Uranium Leasing Program in response to the 2006 FOIA request. *See* Pls.’ Reply on Order to Show Cause (Doc. 35). This is the first time that the issue of documents concerning oil and gas leasing has been raised for decision before me.

In a Notice filed in response to Plaintiff's assertions, Defendant disputes that the "activities under consideration" in the draft PEA included matters such as oil and gas exploration and production on or near the uranium lease tracts, but also notes that Plaintiffs could easily submit a new FOIA request requesting such records. As a result, "[i]n the interest of completeness and efficiency," Defendant states that is conducting an additional search for records concerning certain enumerated actions that occurred on or near 38 uranium lease tracts in the Uranium Leasing Program. Def.'s Notice That It Is Conducting an Additional Search for Records (Doc. 36) 2. However, the Notice does not include the activities that prompted Plaintiffs' objection, oil and gas exploration and production, on the list of activities that are the subject of this additional search. It is not clear to me from the language of the Notice whether this was an oversight or whether the Defendant's new search does not, in fact, seek to identify records concerning oil and gas activities on or near the uranium lease tracts.

The Defendant shall file a notice clarifying this issue no later than **Thursday, July 30, 2009**, so I can determine whether it is necessary for me to consider whether documents concerning oil and gas activities are within the scope of the 2006 FOIA request as part of my assessment of Defendant's response to the pending Order to Show Cause.

IT IS SO ORDERED this 27th day of July, 2009.

s/ John L. Kane
John L. Kane, Senior District Judge
United States District Court